

Notice of Allowability

Application No.

10/781,494

Examiner

Andrea M. Valenti

Applicant(s)

MANTHEI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01 November 2004.
2. ☒ The allowed claim(s) is/are 1-11 and 18-22.
3. ☒ The drawings filed on 18 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other Restriction Election.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-11 and 18-23 in the reply filed on 01 November 2004 is acknowledged. However, upon review of the claims, applicant is required to make a further election as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11 and 18-22, drawn to a toxic substance containment and test system requiring a decontaminating apparatus, classified in class 119, subclass 420.
- II. Claim 23, drawn to a toxic substance containment and test system, classified in class 119, subclass 417.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a means of environmental remediation utilizing the decontaminating apparatus. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with U. John Biffoni on 23 November 2004 a provisional election was made without traverse to prosecute the invention of group 1, claims 1-11 and 18-22. Affirmation of this election must be made by applicant in

replying to this Office action. Claim 23 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with U. John Biffoni on 23 November 2004.

The application has been amended as follows:

Claim 23 was cancelled.

Allowable Subject Matter

Claims 1-11 and 18-22 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited references U.S. Patent No. 4,348,985; U.S. Patent No. 2,786,740; U.S. Patent No. 3,654,534; U.S. Patent No. 6,651,587; U.S. Patent No. 3,356,370; U.S. Patent No. 2,705,489; U.S. Patent No. 4,657,004; U.S. Patent No. 4,305,347; U.S. Patent No. 3,505,989; U.S. Patent No. 4,111,753; and United Kingdom Patent GB 2276088 teach a containment area with a source of non-reactive gas and a staging area and an ion neutralizer. The prior art of record all fails to teach or make obvious either alone and/or in combination a toxic substance containment and test system comprising: a fume hood comprising an air exhaust system and a toxic substance filter, a containment

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compartment positioned within the fume hood, comprising an airtight seal, a pair of glove ports through which an operator can manipulate objects within the containment compartment, and an exit port for removing a test sample, a source of a non-reactive gas coupled to the containment compartment to provide a stable atmosphere within, an inline moisture trap coupled to the source of non-reactive gas to dry the non-reactive gas, an ion neutralizer coupled to the source of non-reactive gas to reduce static charges within the containment compartment, a staging area in the containment compartment for preparing the test sample, a balance positioned within the containment compartment to measure the test sample, a stanchion positioned within the fume hood for holding a test animal, and decontaminating apparatus for cleaning up toxic substance residue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


U.S. Patent No. 4,348,985; U.S. Patent No. 2,786,740; U.S. Patent No. 3,654,534; U.S. Patent No. 6,651,587; U.S. Patent No. 3,356,370; U.S. Patent No. 2,705,489; U.S. Patent No. 4,657,004; U.S. Patent No. 4,305,347; U.S. Patent No. 3,505,989; U.S. Patent No. 4,111,753; and United Kingdom Patent GB 2276088

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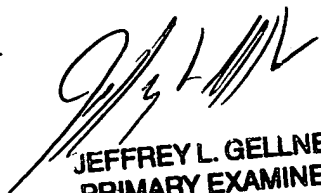
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

23 November 2004


JEFFREY L. GELLNER
PRIMARY EXAMINER

Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600